

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



Th - 6A & 7A

ADDENDUM for Thursday # 6A and 7A

DATE: July 10, 2007

TO: Commissioners and Interested Parties

FROM: North Central Coast District Staff

SUBJECT: Agenda Item (1) San Mateo County Resource Conservation District Public Works Plan No. 2-07-004 to improve fish passage through culvert removal and replacement by a clear span bridge on Frenchmen's Creek, (2) Notice of Impending Development (NOID) NOID No. 1-7 for the Specific Public Works Project, in the City of Half Moon Bay and Unincorporated San Mateo County.

The purpose of the addendum is to revise staff's recommended Modifications to the Public Works Plan (PWP) and the Special Conditions on the NOID as well as staff's proposed findings regarding the PWP and the NOID. This addendum also responds to public comments received about the proposed project.

Note: ~~Strikethrough~~ indicates text to be deleted from the June 28, 2007 staff report and underline indicates text to be added to the June 28, 2007 staff report.

1) The SUGGESTED MODIFICATIONS for CERTIFICATION OF THE PUBLIC WORKS PLAN (RESOLUTION II) shall be revised as follows:

Page 5

Modification No. 1

All development subject to PWP-2-07-004 shall be undertaken in accordance with Mitigation Measure Nos. 1-74 listed in Section 2.3 below, as well as all modifications listed below.

Modification No. 2

All development subject to PWP-2-07-004 shall avoid impacts to nesting birds by ensuring that no construction activities, including grading or placement of equipment, ~~occur on or before August 31~~ are undertaken unless ~~For construction activities occurring after August 31,~~ a preconstruction survey has been ~~shall be~~ undertaken for any nesting birds or raptors within 100 feet of construction activities within 30 days prior to commencement of construction and no active nests are found. If active nests are found at any time, no grading or construction work shall occur until all young have fledged.

Modification No. 3

All development subject to PWP-2-07-004 shall avoid impacts to the San Francisco dusky-footed woodrat. Prior to commencement of construction, including grading or placement of equipment, a 50-foot buffer shall be established around the active stick nests adjacent to the project site. Allowable activities within the 50-foot buffer shall be restricted to hand removal of vegetation as deemed necessary by CDFG and USFWS to allow for the adequate biological monitoring of the San Francisco garter snake as required in Mitigation No. 11. Any other activities aside from limited hand removal of vegetation shall be prohibited. A qualified biological monitor shall be present at the site during all grading and construction activities to ensure that the San Francisco dusky-footed woodrat is not harmed.

Modification No. 4

Prior to Commencement of Construction, all development subject to PWP-2-07-004 shall obtain all other agency approvals as necessary.

Modification No. 5

Disturbed and compacted areas shall be revegetated with locally obtained native plant species. The species shall be riparian and specific to the vicinity where the project is located.

2) The SPECIAL CONDITIONS for APPROVAL OF PUBLIC WORKS PROJECT (RESOLUTION III) shall be modified as follows:

Page 7

- 1. Mitigation Measures.** The applicant shall undertake all stages of development in accordance with Mitigation Measure Nos. 1-74 listed in Section 2.3 below, as well as all special conditions listed below.

2. Nesting Birds.

- a. The applicant shall not begin any construction activities, including grading or placement of equipment, ~~on or prior to August 31, unless~~
- b. ~~For construction activities occurring after August 31,~~ a preconstruction survey ~~shall be~~ has been carried out for any nesting birds or raptors within 100 feet of construction activities within 30 days prior to commencement of construction and no active nests are found.
- c. ~~b.~~ If active nests are found, no grading or construction work shall occur until all young have fledged.

3. San Francisco Dusky-footed Woodrat

- a. A 50-foot buffer shall be delineated around the active stick nests adjacent to the construction site.
- b. Allowable activities within the 50-foot buffer shall be restricted to hand removal of vegetation to as deemed necessary by CDFG and USFWS to ensure conditions that allow for the adequate biological monitoring of the San Francisco garter snake as required in Mitigation No 11.
- c. Any other activities aside from those enumerated in Special Condition 3b shall be prohibited.
- d. A qualified biological monitor shall be present at the site during all grading and construction activities to ensure that the San Francisco dusky-footed woodrat is not harmed.

4. Other Agency Approvals. PRIOR TO COMMENCEMENT

OF CONSTRUCTION, the applicant shall obtain authorization from the USFWS to carry out the project in compliance with the laws and regulations of the federal Endangered Species Act.

5. Revegetation. Disturbed and compacted areas shall be revegetated with locally obtained native plant species. The species shall be riparian and specific to the vicinity where the project is located.

3) The STAFF'S RECOMMENDED FINDINGS AND DECLARATIONS shall be modified as follows:

Page 12 (end of paragraph 2)

... Negative declaration and in consultation with USFWS staff biologist. (Staff recommends adding Modification #5 to the PWP and Special Condition #5 to the NOID in order to assure that the revegetation used is similar to the specific project location and habitat type).

2.4.2 The ANALYSIS OF DEVELOPMENT WITHIN STREAM AND RIPARIAN CORRIDOR shall be modified as follows:

4. Use only adapted native or non-invasive exotic plant species when replanting,

The applicant is proposing to use only native riparian species as demonstrated in the revegetation plan (Exhibit 3). Furthermore, the *Avoidance and Mitigation Measures for Impacts to Riparian Vegetation*, which are proposed by the applicant, and incorporated as part of the modifications to the PWP and as a special condition of the NOID, include Mitigation Measure 69 that states:

Disturbed and compacted areas shall be revegetated with locally obtained native plant species. [Emphasis added.] The species used should be specific to the project vicinity or the region of the state where the project is located, and comprise a diverse community structure (plantings should include both woody and herbaceous species). Plant at a ratio of two plantings to one removed plant.

The staff recommends adding modification #5 to the PWP and Special Condition #5 to the NOID, thereby adding site specific restrictions to proposed Mitigation Measure #69.

The dense riparian vegetation along Frenchman's Creek provide valuable habitat for birds and raptors that could use the riparian corridors for breeding, feeding, and protection. The proposed PWP/Specific Project would not remove any mature riparian trees and would minimize overall vegetation removal as stated in Mitigation Measure Nos. 58-70, which would minimize potential adverse impacts to sensitive bird habitat. However construction activities and noise could disturb nesting birds on and adjacent to the project site. The construction window for this project is constrained by identified in the proposed mitigation measures which require that construction activities occur between July 1 and October 15. The end date is set by the ~~(the most restrictive timing limitation proposed which is to protect~~ the California red-legged frog). The programmatic Mitigated Negative Declaration states that work occurring after July 31 would eliminate potential impacts to nesting raptors and migratory birds from disturbance during construction. However, the post July 31 construction date is not an explicit mitigation measure required in the Mitigated Negative Declaration or proposed by the applicant. In addition, regional CDFG biologist (pers comm. Dave Johnston) working in the San Mateo Coast and

familiar with the project site stated that the nesting season for birds in the region does not end until August 31.

The Mitigated Negative Declaration specifically provides in its "General Measures for Protection of Biological Resources" (pages B-1 and B-2) that:

(c) The permissible work window for individual work sites will be further constrained as necessary to avoid nesting or breeding seasons of birds and terrestrial animals. At most sites with potential for raptor (including northern spotted owls) and migratory bird nesting, if work is conditioned to start after July 31, potential impacts will be avoided and no surveys will be required. For work that might contain nesting marbled murrelets, the starting date will be September 15 in the absence of surveys. The work window at individual work sites could be advanced if surveys determine that nesting birds will not be impacted. [Emphasis added.]

(d) For restoration work that could affect swallow nesting habitat (such as removal of culverts showing evidence of past swallow nesting, construction will occur after August 31 to avoid the swallow nesting period. Alternatively, the suitable bridge nesting habitat will be netted before initiation of the breeding season to prevent nesting. Netting must be installed before any nesting activity begins, generally prior to March 1. Swallows must be excluded from areas where construction activities cause nest damage or abandonment. [Emphasis added.]

On July 6, 2007, a survey was conducted by two biologists of an area contained by a 300 foot radius of the culvert that is to be removed. (See Attachment 12 for a copy of the report from the survey.) The survey did not find any spotted owls, marbled murrelets or least Bell's vireos in the survey area. No birds were found actively nesting within the survey area, including in the culvert. "A single inactive cup nest was found within the riparian corridor, approximately 75 feet north of the existing culvert. Surveyors inspected the nest from above and observed no sign of recent activity (e.g. fresh nesting material or feathers). The general condition of the nest was poor."

Although a site specific survey was conducted by the applicant and no active nests were found, As such, in order to ensure that the proposed PWP/Specific Project would prevent adverse impacts to birds and raptors, the Commission imposes Modification No. 2 and Special Condition No. 2 to prohibit any construction activities prior to or on August 31, including but not limited to any grading or placement of equipment unless a preconstruction survey has been undertaken for any nesting birds or raptors within 100 feet of construction activities within 30 days prior to commencement of construction and no active nests are found. If active nests are found at

any time, no grading or construction work shall occur until all young have fledged, and also requires pre construction surveys to ensure that if there are any nesting after August 31, that work would not begin until after the young have fledged. The recommended modifications and special conditions imposed by the Commission are consistent with mitigation measures identified in the Mitigated Negative Declaration and will ensure that the proposed PWP/Specific Project would will not result in any significant adverse impacts to any nesting birds.

Add section RESPONSE TO PUBLIC COMMENTS on Page 34 (before Section 3.0 CEQA):

Page 34

2.4.5 Response to Public Comments

The Commission has received several written communications and its staff have had several discussions regarding this PWP and the NOID with the City of Half Moon Bay and the SNCRCD. In its letter of June 1, 2007, the City acknowledged "that the proposed mitigations and species protocols appear sufficient in mitigating potential impacts," but it was particularly concerned with the lack of biological reports to address "known impacts" at the specific site. Since receipt of that letter, several further steps have been taken to address these concerns. A survey for sensitive plant species was completed by Melissa Smothers (see Attachment 8 of the June 28, 2007 Staff Report), a survey for the Dusky Footed Wood Rat was conducted and a survey for nesting birds had been completed on July 4, 2007 (See Attachment 7 of the June 28 Staff Report). In addition, the modifications on the Public Works Project and the conditions on the NOID are designed with the assumption that species such as the San Francisco Garter Snake and the CRLF will be encountered on the site. The applicant, the SMCRCDC, also points out in its letter, dated July 6, 2007, (See attachment 15) that the Mitigated Negative Declaration assumes the presence of protected species whether or not they are known to be present.

With the additional site specific biological information and after having a chance to review the proposed mitigation measures, the recommended Modifications to the PWP and the Special Conditions of the NOID, the City of Half Moon Bay in its letter dated July 2, 2007, stated, "City staff has determined that the information you submitted has addressed our concerns sufficiently to deem this project complete." The letter also points out some further details the City intends obtain at the time it reviews the grading plans through its local approval process. The Commission notes recommended Modification #4 (as described in the June 28 staff report on page 5) requires the applicant to obtain all other necessary agency approval (including local approvals) prior to commencement of construction. SMCRCDC has also stated that it will immediately begin applying for a grading permit pursuant to the request contained in the July 2, 2007 letter from the City.

Therefore, because the Mitigated Negative Declaration assumes the presence of protected species whether or not they are known to be present and site specific surveys have documented the absence of protected species, the evidence in the record supports approval of the PWP as modified and the NOID as conditioned.

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List of Attachments

Item 12 - July 6, 2007 Report by Swaim Biological Inc. of survey for birds and nests in project area.

Item 13 - June 1, 2007 letter from City of Half Moon Bay to the Coastal Commission staff.

Item 14 - July 2, 2007 letter from the City of Half Moon Bay to the Coastal Commission staff.

Item 15 - July 6, 2007 letter from San Mateo County Resource Conservation District to Coastal Commission staff.

Item 16 - July 9, 2007 letter from Michael Ferreira in support of the project.

Item 17 - June 28, 2007 letter from Coastal Conservancy in support of the project

Item 18 - June 28, 2007 letter from the National Oceanic and Atmospheric Administration in support of the project.

Item 19- July 3, 2007 letter from Richard Gordon (San Mateo County Supervisor) in support of the project.



Swaim Biological Incorporated
4435 First Street PMB #312
Livermore, CA 94551-2215

To: **Kellyx Nelson**
From: **Karen Swaim**
Date: **July 6, 2007**
Re: **Frenchman's Creek Fish Passage Improvement Project**
Pursuant To: **US Fish and Wildlife Service Biological Opinion 1-1-03-F-273**

Introduction

The San Mateo County Resource Conservation District (RCD) plans to remove a perched culvert on Frenchman's Creek that presents a barrier to migrating steelhead, and replace it with a free span railcar bridge. The creek will be re-graded and rock weirs will be set in place to facilitate fish passage. When the barrier is removed, fish will have access to about 4.4 miles of the creek, from the ocean to a natural waterfall that blocks passage high in the hills.

The U.S. Fish and Wildlife Service Programmatic Biological Opinion dated August 18th, 2004 requires that surveys be conducted for spotted owls, marbled murrelets, and least Bell's vireos prior to construction activities. In addition the Coastal Commission expressed specific concern for swallows potentially nesting in the culvert to be removed. Surveys for these species were conducted on July 4th, 2007 by SBI biologists.

Methodology

A survey was conducted by two qualified biologists, Tammy Lim and Jeff Mitchell, on July 4th, 2007. Surveyors walked meandering transects throughout the area contained within a 300-foot radius around the existing culvert and recorded all species of birds identified visually and acoustically. A survey of the culvert was conducted by walking the length of it on the inside. Visual surveys were conducted throughout the rest of the survey site using binoculars, and acoustic surveys were conducted at several locations within or adjacent to the riparian corridor where visibility was limited. At each listening station, surveyors listened for 10 minutes and recorded all vocalizations by species and location.



EXHIBIT NO. 12
APPLICATION NO.
PWP 2-07-04 & SMC NOID 1-07
7/6/07 Report by Swaim Biological Inc.

Surveys were conducted during morning hours, from 0800 to 1100. Weather conditions were appropriate, with wind speeds less than 10 miles per hour, and no precipitation.

Results

No detections of swallows, spotted owls, marbled murrelets, or least Bell's vireos were made during the survey. In addition, no birds were found to be actively nesting within the survey area, including the culvert. The inside of the culvert was completely free of debris or any old or new nests. A single inactive cup nest was found within the riparian corridor, approximately 75 feet north of the existing culvert. Surveyors inspected the nest from above and observed no sign of recent activity (e.g. fresh nesting material, or feathers). The general condition of the nest was poor.

Habitat types within the survey area consisted of agricultural, ruderal and riparian areas. Plant species found in the riparian area were predominantly red alder (*Alnus rhombifolia*), wax-myrtle (*Myrica californica*), arroyo willow (*Salix lasiolepis*), red elderberry (*Sambucus callicarpa*), horsetail (*Equisetum*), California blackberry (*Rubus californica*), and stinging nettle (*Urtica*).

The following is a complete list of all bird species identified.

Common Name

Scientific Name

Western Gull

Larus occidentalis

Mourning Dove

Zenaida macroura

Anna's hummingbird

Calypte anna

Black phoebe

Sayornis nigricans

Steller's Jay

Cyanocitta stelleri

Western Scrub Jay

Aphelocoma californica

American Crow

Corvus brachyrhynchos

Northern rough-winged swallow

Stelgidopteryx serripennis

House wren

Troglodytes aedon

Golden-crowned Kinglet

Regulus satrapa

American robin

Turdus migratorius

Swainson's Thrush

Catharus ustulatus

California towhee

Pipilio crissallis

Song Sparrow

Melospiza melodia

Dark-eyed Junco

Junco hyemalis

Conclusion

No spotted owls, marbled murrelets, and least Bell's vireos were observed within the survey area. The dense old-growth cover that most strongly predict spotted owl and marbled murrelet breeding presence were absent. The lack of suitable habitat suggests that these species are not actively nesting in the survey area or the immediate vicinity.

The survey area is within the historic range of the least Bell's vireo. Although the riparian habitat with dense understory along Frenchman's Creek provides suitable nesting habitat for least Bell's vireos, no individuals or nests were detected. No other special status species were observed during the survey.



CITY OF HALF MOON BAY

City Hall, 501 Main Street
Half Moon Bay, CA 94019

RECEIVED

JUN 04 2007

CALIFORNIA
COASTAL COMMISSION

June 1, 2007

Ms. YinLan Zhang
Coastal Program Analyst
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

**Re: San Mateo County Resource Conservation District's Proposed Frenchmen's
Creek Fish Passage Public Works Plan**

Dear Ms. Zhang:

Thank you for the opportunity for City Planning staff to provide comments on the San Mateo County Resource Conservation District's application for the Frenchmen's Creek Fish Passage Public Works Plan. After careful review of the proposal, the City respectfully has the following comments to offer:

Coastal Act Section 30240 (b) states, in part, that "development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas." The City's Certified Local Coastal Program echoes this protection measure by requiring specified permitting conditions. Policy 3-5 (a) states, "Require all applicants to prepare a biologic report by a qualified professional selected jointly by the applicant and the City to be submitted prior to development review. The report will determine if significant impacts on the sensitive habitats may occur, and recommend the most feasible mitigation measures if impacts may occur."

In the materials provided for the City's review, no biological report prepared for the subject site was included. In addition, the Initial Study did not reference a biological report as part of the analysis of the biological resources section. According to Section 18.38.035 of the Half Moon Bay Municipal Code (HMBMC), a biological report is required to be prepared prior to development review by a qualified Biologist for any project within 100 feet of any Sensitive Habitat Area or Riparian Corridor. Section 18.38.030(A) (1) states that there are general report requirements that "shall identify significant impacts on identified Coastal Resources on the project site that would result from development of the proposed project." Section 18.38.035(B) (1) requires that the biological report map "existing sensitive habitats, riparian areas, and wetlands located on or within 200 feet of the project site."

Furthermore, Section 18.38.075(1) defines riparian buffer zones as "land on both sides of riparian corridors which extends from the "limit of riparian vegetation" 50 feet outward for perennial streams and 30 feet outward for intermittent streams." When development occurs within a riparian buffer zone, findings (contained in Section 18.38.075(H) (1-6)) for the development shall be supported by the contents of the required biological report.

EXHIBIT NO. 13

APPLICATION NO.

PWP 2-07-04 &
SMC NOID 1-07

6/1/07 Letter from City
of HMB to CCC staff

(page 1 of 2)

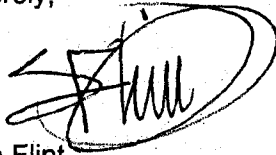
The "Project Location and Site Map" provided are not site specific and the Mitigated Negative Declaration for the 2006 Fisheries Restoration Grant Program completed covered anticipated activities proposed in thirteen counties located within the State of California. The Initial Study states that it was "determined that there would not be significant adverse environmental effects resulting from implementing the proposed project" but yet the project did not appear to analyze site specific conditions.

The City acknowledges that that the proposed mitigations and species protocols appear sufficient in mitigating potential impacts, but do not address known impacts. For example, the Frenchmen's Creek Stream Restoration Plan illustrates trees in specific locations but does not identify their species. By having a biological report prepared, it establishes each proposal as uniquely different. Although the Programmatic MND has included a comprehensive mitigation and monitoring program, it is deficient by its reporting and mapping of sensitive habitat areas and more specifically in this case, the riparian corridor.

The City recognizes that this proposal will significantly improve fish passage on Frenchmen's Creek and supports the efforts of the San Mateo County Resource Conservation District, but for the reasons mentioned in this letter, the project as prepared is not consistent the City's Certified Local Coastal Program.

It is recommended that a site specific biological analysis be completed in accordance with the City's Certified LCP and that the report be submitted to the City for review. Again, thank you for the opportunity to provide these comments and we look forward to reviewing this project further.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Flint", enclosed within a large, loopy oval shape.

Steve Flint
Planning Director

cc: Marcia Raines, City Manager, City of Half Moon Bay; Michael Endicott, Coastal Program Manager; Charles Lester, Senior Deputy Director



CITY OF HALF MOON BAY

City Hall, 501 Main Street
Half Moon Bay, CA 94019

July 2, 2007

Ms. YinLan Zhang
Coastal Program Analyst
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Re: Proposed Frenchmen's Creek Fish Passage Public Works Plan (PWP)

Dear Ms. Zhang:

City staff has reviewed the additional information you submitted on Thursday June 21, 2007 pertaining to the PWP referenced above. In response, an e-mail was sent to you on June 25, 2007. The primary concern expressed in that e-mail addressed the need for more information regarding the San Francisco Garter Snake, specifically, mitigation measures that were not part of the Final Mitigated Negative Declaration prepared for the 2006 Fisheries Restoration Program, which included the Frenchman's Creek project. Since then, we received additional information that you submitted on June 26 and June 29, 2007. After careful review, City staff has determined that the information you submitted has addressed our concerns sufficiently to deem this project complete.

We previously stated that, according to the City's certified Local Coastal Plan, all applicants are required to submit a biological report, prepared by a qualified professional selected by the City, prior to the review of any development proposed within 100 feet of a sensitive habitat area. In this case, the City did not select any of the biologists involved, but we are confident that the professionals who prepared the biological assessments are qualified.

The Final Mitigated Negative Declaration indicates that it was not feasible to survey individual work sites, including the Frenchman's Creek project site. You have supplemented this environmental document with a botanical report addressing sensitive plant species and habitats based on a site survey conducted in May 2007, dated June 26, 2007, and with the results of a survey of Dusky Footed Woodrat nests prepared by Karen Swaim on June 19, 2007 and e-mailed on June 21, 2007. While we find it unusual that a known herpetologist was hired to conduct a woodrat study and not to study rare and endangered species (SFGS and CRLF) that might exist in the project area, we do appreciate the efforts that were made to provide other surveys conducted within the project area.

Both of the reports concluded that sensitive plant and animal species were expected to occur within the project area, but site-specific surveys revealed that none of those species were found in the project area. It is possible that, had site specific surveys been done for SFGS and CRLF, they might have reached a similar conclusion. Instead, the Final Mitigated Negative Declaration prepared for the 2006 Fisheries Restoration Program states that, in the absence of site-specific information, species identified as having potential to be affected at the work site will be presumed to be present and mitigation measures to avoid impact to that species will be implemented. We have been provided a copy of the measures that are intended to mitigate potential impacts to SFGS. City staff recommends that these mitigation measures be included in the certification of the PWP permit together with the modifications suggested below.

**EXHIBIT NO. 14
APPLICATION NO.**

PWP 2-07-04 &
SMC NOID 1-07

7/2/07 Letter from the
City of HMB to CCC staff

City staff had previously stated that the project area had not been sufficiently delineated because the Project Location and Site Map did not show existing sensitive habitats, riparian areas, and wetlands located on or within 200 feet of the project site as required by the City's LCP. Similarly, the Revegetation Plan submitted electronically on June 21, 2007 does not show conditions beyond the immediate area of the new clear-span bridge over and fish ladders in the creek. Therefore, it is requested that, as a condition of approval, a detailed Landscape and Revegetation Plan be submitted to the City for approval prior to any grading, clearing or grubbing. This Plan must show the extent of the Riparian corridor by delineating the dripline on both sides of the creek and show all native trees to be retained on site measuring 4 inches (diameter breast height) or greater.

The Revegetation Plan Notes indicate that all container-installed plants should be irrigated for three years after planting during the spring-summer-fall dry season, at least twice a week, but may need to be adjusted for climatic conditions and sun exposure. Also, recommended irrigation is by drip emitters to each plant from a point of connection in the adjacent farm fields. The actual source of water should be identified and permission should be obtained from adjacent property owner(s) prior to final approval of a detailed Landscape and Revegetation Plan.

The Notes state that the maintenance program will extend for a period of three years after planting, but further state that shrubs and/or trees will be replanted to replace any that do not survive the first year. This note should be revised to require the replacement of any tree or shrub that does not survive during the three year maintenance period.

We have been provided with information indicating that approximately 693 cubic yards of soil will be excavated from the project site and another 632 cubic yards of fill will be imported, however, no plans, preliminary or otherwise, have been submitted for review. The City of Half Moon Bay requires a grading permit for any project that moves 500 cubic yards or more. A detailed Grading Plan will be required to be reviewed and approved before any Grading Permit is issued. The City also requests a copy of the Streambed Alteration Agreement issued by the California Department of Fish and Game for this project.

City staff acknowledges that the proposed mitigation measures recently submitted appear to be sufficient to mitigate potential adverse impacts. With the inclusion of the additional requirements addressing grading, irrigation and revegetation, the project will comply with the City's Certified LCP and will serve to enhance the environmental conditions in the Frenchman's Creek corridor. Thank you for the opportunity to provide these comments and we look forward to reviewing the improvement plans following the approval of the Coastal Development Permit.

Sincerely,
City of Half Moon Bay


Steve Flint
Planning Director

cc: Marcia Raines, City Manager, City of Half Moon Bay; Michael Endicott, Coastal Program Manager; Charles Lester, Senior Deputy Director

SAN MATEO COUNTY RESOURCE CONSERVATION DISTRICT

helping people protect, conserve and restore natural resources since 1939

July 6, 2007

YinLan Zhang
California Coastal Commission
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Subject: Reply to July 2, 2007 letter, "Re: Proposed Frenchmen's [sic] Creek Fish Passage Public Works Plan (PWP)"

Dear Ms. Zhang:

This is a response to the letter from Steve Flint dated July 2, 2007 and entitled "Re: Proposed Frenchmen's [sic] Creek Fish Passage Public Works Plan (PWP)." I am pleased to see that a number of his previous concerns have been addressed, summarized as follows:

1. The mitigation measures for the San Francisco Garter Snake are acceptable.
2. The California Department of Fish and Game (DFG) is qualified by City staff to prepare a biological assessment.
3. The Mitigated Negative Declaration assumes presence of protected species whether or not they known to be present, i.e. the document errs on the side of being overly restrictive.
4. The efforts by the RCD to provide additional site-specific surveys are appreciated.

Mr. Flint also brings up some concerns, which I have enumerated below, followed by my responses. The RCD is committed to making further accommodations but requests that the Coastal Commission meanwhile permit the RCD to implement this project to improve habitat for steelhead trout and California red-legged frogs. Permits and the majority of funding expire this year, meaning that this beneficial project could be jeopardized entirely.

Mr. Flint expressed concern that "the Project Location and Site Map did not show existing sensitive habitats, riparian areas, and wetlands located on or within 200 feet of the project site."

1. The RCD acknowledges and assumes that the entire project is in a riparian area. The purpose of the project is to restore the riparian habitat.
2. It was not feasible for DFG to conduct site specific biological reports and maps for every project that is part of their statewide Fisheries Restoration Grant Program, for which the Mitigated Negative Declaration was prepared. It is for this reason that the presence of all potential protected species is assumed and appropriate measures are taken to protect those species.
3. Mr. Flint is correct in his supposition that a site specific report may have resulted in less restrictive protection measures. Furthermore, the RCD has surpassed the

625 Miramontes Street, Suite 103 • Half Moon Bay, CA 94019
ph (650) 712-7765 • fax (650) 726-0494
www.sanmateorcd.org

EXHIBIT NO.	15
APPLICATION NO.	
PWP 2-07-04 & SVC NOLD 1-07	
7/6/07 Letter from SMC Resource Conservation Dist. to CCC staff (Pg. 1 of 5)	

requirements of the City's LCP in its efforts to mitigate impacts to protected species. While the LCP does not recognize dusky footed wood rats, marbled murrelets, California Red-legged Frogs, or steelhead trout as rare or endangered species that may be present in the City of Half Moon Bay*, the RCD has assumed their presence unless site specific biological surveys proved otherwise.

Mr. Flint made specific requests regarding the revegetation plan.

1. His criteria for success are substantially higher than those required in the LCP[†] and the Streambed Alteration Agreement.
2. The City Planner who reviewed the project concluded that the project designs had adequate revegetation that met the criteria in the LCP. No further work was required.

Regarding the amount of grading in the project, Mr. Flint expressed concern that "no plans, preliminary or otherwise, have been submitted for review." This is not accurate.

1. I gave Mr. Flint a reduced set of plans for preliminary review during our December 19, 2006 meeting.
2. I hand-delivered four full-size sets of plans and one 11 x 17 reduction on March 9, 2007 as part of an application for a Coastal Development Permit. Enclosed please find the cover letter to that application, which is date-stamped in City files.
3. The City sent copies of the plans to affected public agencies as part of the City's review and distribution process.

* "18.38.085 Habitats for Rare and Endangered Species. A. Rare and Endangered Species. The potential exists for any of the following Rare and Endangered Species to be found within the San Mateo County Coastal Area and therefore within the City of Half Moon Bay: 1. Animals: the San Francisco Garter Snake, California Least Tern, California Black Rail, California Brown Pelican, San Bruno Elfin Butterfly, San Francisco Tree Lupine Moth, Guadalupe Fur Seal, Sea Otter, California Brackish Water Snail, Globose Dune Beetle"

[†] 18.38.075 Riparian Corridors and Buffer Zones.

C. Standards. Development shall be designed and constructed so as to ensure:

1. That the removal of vegetation is minimized;
2. That land exposure during construction is minimized and that temporary vegetation or mulching is used to protect critical areas;
3. That erosion, sedimentation, and runoff is minimized by appropriately grading and replanting modified areas;
4. That only adapted native or non-invasive exotic plant species are used for replanting; ...
9. That natural vegetation buffer areas which protect riparian habitats are maintained;
10. That any alteration of natural streams is minimized.

G. Development Standards within Riparian Buffer Zones. Development shall be designed and constructed so as to ensure:

1. That the removal of vegetation is minimized;
2. That development conforms to natural topography and that erosion potential is minimized;
3. That provisions have been made to (i.e. catch basins) keep runoff and sedimentation from exceeding pre-development levels;
4. That native and non-invasive exotic vegetation is used for replanting, where appropriate.

4. A set of plans was kept by the City when the application was withdrawn and is still in their possession, as indicated in the enclosed email from Associate Planner, Tonya Ward, dated May 10, 2007.
5. On June 27, 2007, I left a hand-written message for Mr. Flint at his office alerting him to the fact that a full set of plans is also available for his review online at www.sanmateorcd.org/frenchmans_designs.html.

In his July 2nd letter Mr. Flint requires a grading permit. As the resource conservation agency entrusted by the County LCP to review and authorize Grading Permit Exemptions, the RCD certainly agrees with the need for an adequate grading plan. The RCD is additionally named as a certifying authority in the "Development Standards within Riparian Buffer Zones" section of the City's LCP. The RCD will apply for a grading permit immediately now that we have been notified of the requirement, however:

1. While there are standards for grading in the LCP[‡], a grading permit is not a requirement of the LCP. This is a separate ministerial permit, not under the jurisdiction of the Coastal Commission or related to this PWP request.
2. The RCD has never been notified of this permit requirement in spite of the fact that a specific request for consultation on this matter was made via email to Mr. Flint on March 9, 2007: "The remaining obstacle to getting the project in the ground this summer is the local permits- coastal development permit, grading permit or exemption... I would like to speak with you at your earliest convenience to start the permitting process ..."
3. The City Planner who reviewed the designs felt that the grading plan was consistent with the LCP.
4. The CDP application submitted in March included specific information about the amount of grading that would take place but did not trigger a response from the City that a grading permit would be required.

Thank you for your time and consideration of this response. I am thrilled about the opportunity before us to restore miles of the most valuable spawning and rearing habitat for steelhead trout within this stream system.

Sincerely,

Kellyx Nelson
Executive Director

cc: Marcia Raines, City Manager, City of Half Moon Bay
Michael Endicott, Coastal Program Manager
Charles Lester, Senior Deputy Director

[‡] Included in the standards above in footnote 2.

From: Tonya Ward
To: Kellyx Nelson;
Subject: Refund letter attached
Date: Thursday, May 10, 2007 9:20:02 AM
Attachments: Refund Letter.pdf

Hi Kellyx,

Thank you for the request. The hard copy of the refund letter will be mailed to you today and the check will follow within about one week from the Finance Department. Since I will only need to retain 1 set of the plans for the file, I wanted to know if you wish to keep the remaining 3 sets. Please let me know if you wish to have them or they will be recycled.

I look forward to working with you in the future and best of luck with the application.

Best Regards,

Tonya

Tonya Ward
Associate Planner
City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019
phone: (650) 726-8251
fax: (650) 726-8261
email: tward@hmbcity.com

SAN MATEO COUNTY RESOURCE CONSERVATION DISTRICT
helping people protect, conserve and restore natural resources since 1939

March 9, 2007

City of Half Moon Bay
Planning Department
501 Main Street
Half Moon Bay, CA 94019

Application for Coastal Development Permit for Frenchmans Creek Fish Passage Improvement Project

To whom it may concern:

Enclosed please find check #1504 and an application for a coastal development permit for the Frenchman's Creek Fish Passage Improvement Project of the San Mateo County Resource Conservation District (RCD). The RCD is a special benefit district, enabled by California Public Resources Code, to protect, conserve, and restore natural resources.

The following information is included in this application to provide sufficient information regarding the size, intensity, and location of development activity intended to be undertaken pursuant to the plan:

- Planning Permit Application Form and signed affidavit
- Project description
- Four sets of plans and one 11 x 17 reduction that include topographic surveys
- Engineering report
- Project location and site map
- Mitigated Negative Declaration and Notice of Determination
- Supplemental Mitigation Measures & Mitigation Monitoring Program
- Statement of Work (DFG contract)
- County permit applications with additional information
- Letters of authorization from landowners

There are no parcels or residents within 300 feet of the project area other than the landowners included in the application, so a notification list and mailing labels were not included with this application. Thank you for your consideration of this permit request. If you have any thoughts or questions about the proposed project, please do not hesitate to contact me.

Sincerely,

Kellyx Nelson
Executive Director

625 Miramontes Street, Suite 103 • Half Moon Bay, CA 94019
ph (650) 712-7765 • fax (650) 726-0494
www.sanmateorcd.org

**Michael J. Ferreira
419 St. Joseph Avenue
Half Moon Bay, Ca 94019**

California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

July 9, 2007

Re: Agenda items Th 6a & 7a, July 12, 2007

Dear Commissioners,

This letter is in support of the staff reports for items Th 6a & 7a –the (1) **San Mateo County Resource Conservation District Public Works Plan No. 2-07-004** and the (2) **Notice of Impending Development (NOID) NOID No. 1-7 for the Specific Public Works Project** located on the Frenchman's Creek borderline between the City of Half Moon Bay and the unincorporated area of San Mateo County.

This application presents an excellent solution to a longstanding problem and the Coastal Commission staff recommendations make it even better. The missions of the Resource Conservation District and the Coastal Commission are both well served by this project and therefore worthy of support from all citizens who respect the goals of the California Coastal Act.

I am confident that this Commission will see this project in the same light and I await news of your concurrence.

Sincerely,



Mike Ferreira
Former Mayor
Half Moon Bay, California

EXHIBIT NO. 16
APPLICATION NO.
PWP 2-07-04 & SVC NOID 1-07
7/9/07 Letter from Michael Ferreira in support of the project



June 28, 2007

RECEIVED

JUN 29 2007

CALIFORNIA
COASTAL COMMISSION

Patrick Kruer, Chairman
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Item No. Thursday 6a/7a, Frenchman's Creek Fish Passage
(San Mateo County Resource Conservation District)

Dear Chairman Kruer:

I am writing to express the Coastal Conservancy's support for the Frenchman's Creek Fish Passage Project in San Mateo County (Item No. 6a/7a on your agenda for Thursday, July 12, 2007). The Conservancy has granted funds to the San Mateo County Resource Conservation District to remove this perched culvert, which currently blocks threatened Central California Coast Steelhead from migrating upstream. Several other agencies have contributed funds, including the state Department of Fish and Game and NOAA Fisheries.

If the RCD is not able to construct the project this summer/early fall, it will lose the bulk of the state funds. It would be a true shame to see the opportunity for opening passage to two miles of historic steelhead spawning habitat lost.

We at the Coastal Conservancy are very appreciative of your staff's efforts to enable this project to go forward. If you have any questions about the Conservancy's role in this project, please contact me or project manager Janet Diehl at (510) 286-4164. Thank you for considering this letter of support.

Sincerely,

Nadine Hitchcock, for:

Sam Schuchat
Executive Officer

EXHIBIT NO. 17

APPLICATION NO.

PWP 2-07-04 +
SME NDID 1-07

6/28/07 LTR FROM
COASTAL CONSERVANCY

1330 Broadway, 13th Floor

Oakland, California 94612-2530

510-286-1015 Fax: 510-286-0470





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
777 Sonoma Avenue, Room 219-A
Santa Rosa, CA 95409

In Response refer to:
F/SWR3:KC

June 28, 2007

RECEIVED
JUN 29 2007
CALIFORNIA
COASTAL COMMISSION

Patrick Kruer, Chairman
California Coastal Commission
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
Re: Item No. Thursday 6a/7a, Frenchman's Creek Fish Passage
(San Mateo County Resource Conservation District)

Dear Chairman Kruer,

I am writing this letter to request your support of the fish passage barrier improvement project on Frenchman's Creek in San Mateo County near the city of Half Moon Bay. The National Marine Fisheries Service is currently reviewing and will likely fund this project. This effort involves the removal of a perched culvert and replacing it with a clear span bridge and is being partially funded by a diverse group of agencies. Removal of this barrier will allow access to 2 miles of high quality spawning and rearing habitat above the stream.

This project is a high priority for the National Marine Fisheries Service as it is the only fish passage in this system and its removal will allow for unimpeded access to 4.4 miles of stream from the ocean to the natural limit of fish access for the federally threatened population of Central Coast Steelhead found in this watershed. San Mateo County contains a lot of high quality fisheries habitat and it is our sincere hope that this project will be implemented this summer so that this important watershed can contribute to the recovery of this key population of Steelhead.

If you have questions please feel free to contact me at (707) 575-6080 or by e-mail at Kit.Crump@noaa.gov. Thank you for your support of this important project!

Sincerely

Donald "Kit" Crump
NOAA Restoration Center

EXHIBIT NO. 18
APPLICATION NO.
PWP 2-07-04 + SME NOID 1-07
6/28/07 LTR FROM NOAA



RICHARD GORDON

Board of Supervisors
County of San Mateo
July 3, 2007

Patrick Kruer, Chairman
California Coastal Commission
North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RECEIVED

JUL 05 2007

CALIFORNIA
COASTAL COMMISSION

Re: Item No. Thursday 6a/7a, Frenchman's Creek Fish Passage
(San Mateo County Resource Conservation District)

Dear Chairman Kruer,

I write in support of the fish passage barrier improvement project on Frenchman's Creek in San Mateo County; and I regret that I will be unable to attend the hearing on Thursday, July 12th to speak on this project's behalf.


I represent the Third District of San Mateo County which stretches from Pacifica to Pescadero and includes the majority of San Mateo County's 54-miles of coastline. It is our shared responsibility to ensure that any development on this Coast is done so in an environmentally responsible manner. With that in mind, I encourage you to support the issuance of this Coastal Development Permit to a project which's sole purpose is to restore the native habitat.

The removal of this perched culvert will allow the threatened Central California Coast Steelhead to migrate further upstream, reopening an additional two-miles of valuable spawning and rearing habitat.

Unfortunately, if the Resource Conservation District is unable to begin construction on this project by early fall it will lose a significant amount of the funds necessary to complete the project – postponing, perhaps forever, the opportunity to remove this impediment.

I thank you for your consideration of this letter and urge you to support this project.

Sincerely,



Richard S. Gordon

EXHIBIT NO. 19
APPLICATION NO.
PWP 2-07-04 + SMC NOID 1-07
7/3/07 LTR FROM GORDON



County Government Center
400 County Center
Redwood City, CA 94063

Direct (650) 363-4569
Coastside (650) 573-2222
Fax (650) 599-1027